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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,529	06/25/2003	Michael S. Miller	12990-0004	4122

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EXAMINER

SHRIVER II, JAMES A

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,529

Applicant(s)

MILLER, MICHAEL S. 

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-32 is/are pending in the application.
- 4a) Of the above claim(s) 25-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/25/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 25-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species II, there being no allowable generic or linking claim.

Election was made **without** traverse in the Paper received on April 1, 2004.

### *Claim Objections*

2. Claim 15 is objected to because of the following informalities: In line 1, of claim 15, the word "are" should be changed to "is" for grammatical correctness. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 13-16, 18 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tinsley et al. (US Patent 5,746,236) in view of Connolly (GB 2,127,705 A).** Tinsley et al. discloses a cart for an injured person comprising a frame (34); a leg support member (26) coupled to the frame; a handlebar (12) coupled to the frame; wherein the handlebar is moveable at least between a first asymmetrical handlebar position relative to the frame and a

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second asymmetrical handlebar position relative to the frame (See Fig. 3), thereby accommodating a person having a non-ambulatory lower left leg or a non-ambulatory lower right leg, respectively; **[claim 14]** wherein the first asymmetrical handlebar position corresponds to the handlebar being offset to a first side of the frame and the second asymmetrical handlebar position corresponds to the handlebar being offset to a second side of the frame (See Fig. 3); **[claim 15]** wherein the handlebar is rotatably moveable between the first handlebar position and the second handlebar position (See column 3, lines 36-40); **[claim 16]** wherein the handlebar includes a post (32) and crossbar (12) moveably coupled to the post, the post configured to be received by a sleeve of the frame (See Fig. 5) and the crossbar configured to be moveable between a plurality of asymmetrical handlebar positions including the first handlebar position and the second handlebar position (See Fig. 3, where the crossbar, the top portion of the handle is configured to be moveable between the first and second asymmetrical positions); **[claim 18]** further having means (28,29) for coupling the handlebar to the frame (See Fig. 3); **[claim 23]** wherein an upper portion of the leg support member is configured to center the non-ambulatory lower left leg or the non-ambulatory lower right leg relative to the leg support member (See Fig. 1); **[claim 24]** wherein the upper portion includes a generally concave surface (See Fig. 3) configured to center the non-ambulatory lower left leg or the non-ambulatory lower right leg relative to the leg support member.

Tinsley et al. does not disclose a plurality of wheels coupled to the frame. Connolly discloses a walker/cart wherein a plurality of wheels (50) can be coupled to the frame (10). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to attach a plurality of wheels to the frame disclosed in Tinsley et al. in view of the teaching of

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Connolly. The motivation for doing so would have been to allow the cart to be tilted and rolled forward to provide easier forward movement, as opposed to lifting the entire crutch/cart off the ground to move forward (See column 3, lines 35+).

5. **Claims 17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tinsley et al. (US Patent 5,746,236) and Connolly (GB 2,127,705 A) as applied to claims 13-15 above, and further in view of Stone (US Patent 5,411,035).** The combination of Tinsley et al. and Connolly disclose a cart for an injured person as set forth above, but do not disclose a quick disconnect mechanism (means for coupling) configured to couple the handlebar/post to the frame. Stone discloses a cart for an injured person wherein a quick disconnect mechanism (See Fig. 5) configured to couple the handlebar (23) to the frame (60). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a quick disconnect mechanism on the cart disclosed in Tinsley et al. to connect the handlebar to the frame as taught by Stone. The motivation for doing so would have been to allow the user to quickly and easily reposition the handlebar relative to the frame.

6. **Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tinsley et al. (US Patent 5,746,236) and Connolly (GB 2,127,705 A) as applied to claims 13-14 and 16 above, and further in view of Fairfield et al. (US Patent 5,323,664).** The combination of Tinsley et al. and Connolly disclose a cart for an injured person as set forth above, but does not disclose a quick disconnect mechanism configured to couple the crossbar to the post. Fairfield et al. discloses a quick disconnect mechanism (means for coupling) (53,55) configured to couple the crossbar (13) to the post (25). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to attach the crossbar to the post with a quick disconnect

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mechanism in Tinsley et al. in view of the teaching of Fairfield et al. The motivation for doing so would have been to provide a quick and easy adjustment device to change the position of the crossbar in relation to the position.

### *Conclusion*


7. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure. Niitsu et al. (US Patent 6,623,023 B2) is relied on to show a handlebar crossbar that is slideable transversely in a sleeve of a post. David (US Patent 5,167,597), Becker (US Patent 5,158,313), Motts (US Patent 5,086,798), Dotson (US Patent 6,149,170), Accetta (US Patent 5,800,317), Schultz et al. (US Patent 4,748,994), Reid (US Patent 4,867,188), Seeger (US Patent 5,839,740), Longenecker et al. (US Patent 6,053,189) and Skorman et al. (US Patent 5,291,909) are relied on to show a patient walker.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
J. Allen Shriver 4/14/04  
Examiner  
Art Unit 3618

JAS